

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION  
No. 2:11-CR-40-1H

UNITED STATES OF AMERICA                    )  
  )  
          v.                                    )           ORDER  
  )  
BENITO ARMENDARIZ TAMEZ,                    )  
  )  
Defendant.                                    )

This matter is before the court on defendant's motion for reconsideration. The court previously granted a reduction in sentence to defendant pursuant to 18 U.S.C. § 3582(c)(2) based on the retroactive crack cocaine guideline amendment 782. [DE #120]. The court has attached a copy of its previous order for defendant's convenience. The court has carefully considered defendant's motion, [DE #129], as well as the record in this matter, and finds no further relief is warranted. The court notes defendant believes his criminal history category was II, but the PSR and other matters of record indicate a criminal history category of III. Therefore, the court DENIES defendant's motion [DE #139].

This 7<sup>th</sup> day of November 2019.

  
MALCOLM J. HOWARD  
Senior United States District Judge

At Greenville, NC  
#26

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION

No. 2:11-CR-00040-1H

UNITED STATES OF AMERICA,

v.


BENITO ARMENDARIZ-TAMEZ,

Defendant.

ORDER  
(Under Seal)

This matter is before the court on defendant's Motion to Compel the Government to Adhere to the Cooperation Agreement and File a Rule 35 Motion for the Petitioner's Substantial Assistance in the Prosecution of Others filed March 22, 2018 [DE #122]. By order dated May 8, 2018 this court asked the government to file an appropriate response. The government has replied and stated that "The extent of the defendant's assistance has been considered and already resulted in the government filing a motion for downward departure due to Substantial Assistance, which the court granted on October 17, 2012." The court granted the downward departure motion and reduced defendant's sentence by 34 percent on Count 1. Finding no additional basis for a Rule 35 motion, the government does not plan to file one. Therefore defendant's motions are without merit and are hereby DENIED.

This 9<sup>th</sup> day of August 2018.

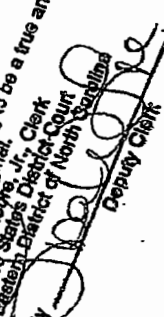
  
MALCOLM J. HOWARD

Senior United States District Judge

At Greenville, NC  
#26

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Copy of this foregoing to be a true and correct  
copy of the original.  
Peter A. Moore, Jr., Clerk  
United States District Court  
Eastern District of North Carolina  
By  Deputy Clerk